



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 5, 2013

IN RESPONSE, PLEASE REFER TO: 03091226

Dr. Renee A. Foose
Superintendent
Howard County Public School System
10910 Route 108
Ellicott City, MD 21042

Dear Dr. Foose:

The U.S. Department of Education (the Department), Office for Civil Rights (OCR) has completed its review of the Howard County Public Schools (the District) May 7, 2013 monitoring report which was submitted to OCR pursuant to the Resolution Agreement (Agreement) signed by the District on February 21, 2013 to resolve the allegations in the above-referenced complaint. This letter will also verify two telephone conversations that OCR had with the District's Title IX Coordinator on May 29 and 30, 2013.

Sexual Discrimination/Sexual Harassment Grievance Procedures

Action Step #1 required that the District submit to OCR for its review and approval draft Title IX grievance procedures to address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence), as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). The Agreement outlined the specific provisions to be included in the Grievance Procedures. In its monitoring report, the District provided OCR with a copy of its Sexual Harassment Policy (Policy 1020). Based upon our review of the Policy, we note that it does not contain the following provisions required by the Agreement:

- The policy does not make it clear that it applies to complaints of sex discrimination, including sexual harassment, sexual assault and sexual violence, in accordance with Action Step #1(a).
- The policy does not provide an explanation of the District's informal complaint procedure and that such procedure is optional, in accordance with Action Step #1(c).
- Although Section II of the policy instructs Students, teachers, and school counselors where to report sexual harassment, the Policy does not specifically provide name or title, office address, and telephone number of the individual with whom to file a complaint, in accordance with Action Step #1(d).

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- The policy does not expressly state that the District will provide for the adequate, reliable, and impartial investigation of all complaints in accordance with Action Step #1(f). In addition, the policy does not state that the parties will be provided with the opportunity to present witnesses and other evidence, in accordance with Action Step #1(f).
- Although Section IV.L of the policy states that the school system will investigate allegations of sexual harassment in a timely manner, the policy does not provide for specific timeframes for the major stages of the investigation if investigated by an Administrator under Section II.B.3. In addition, the policy does not include a provision indicating that the District will comply with law enforcement requests for cooperation and such cooperation may require the District to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence and that the District will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the District's investigation may be longer in certain circumstances, in accordance with Action Step #1(g).
- The policy does not state that the District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community and the avoidance of retaliation, in accordance with Action Step #1(h).
- Although Section IV.N. states that the Title IX Coordinator will send a prompt, written report of the findings, and actions to be taken, if any, within confidentiality guidelines, to the appropriate parties, it is not clear what the District considers to be an appropriate party, and whether notice of the outcome is provided to both the Complainant and the accused individual, in accordance with Action Step #1(i).
- The policy does not provide that the parties may appeal the findings, and that the appeal will be conducted in an impartial manner by an impartial decision-maker, in accordance with Action Step #1(k-l).
- The policy does not provide examples of the types of remedies available to victims, in accordance with Action Step #1(m).

OCR further notes that the policy does not require every teacher or school counselor who receive a complaint of sexual harassment from a student to report every complaint to the Equity Assurance Coordinator. Rather, II.B.2. allows teachers and school counselors to report the complaint to an Administrator, and II.B.3 provides Administrators with the discretion to report only repeat offenders to the Equity Assurance Coordinator. Similarly, Section IV.I provides that all reports which allege sexual harassment by an employee or third party must be filed with or forwarded to the Equity Assurance Coordinator; it does not provide that reports which allege sexual harassment by another student must be filed with the Equity Assurance Coordinator. However, as noted in the Department's April 2011 Dear Colleague Letter, recipients are advised to designate an individual to coordinate the recipient's compliance with Title IX, and that individual's responsibilities include overseeing all Title IX complaints. In addition, while the Definition Section of the policy defines the employee designated to coordinate efforts to comply with and carry out responsibilities under the policy and the law as the Title IX

Coordinator, the rest of the policy refers to the Equity Assurance Coordinator. In the District's next monitoring report, please provide the revised policy to include the enumerated items discussed above. In addition, please ensure that the revised policy refers to the same title consistently, and that the revised policy provides that every complaint must be referred to the individual designated to coordinate efforts to comply with Title IX.

Notice of Nondiscrimination

Action Step #3 required that the District would submit to OCR for review its notice of nondiscrimination pursuant to 34 C.F.R. § 106.9. OCR notes that the District's notice of nondiscrimination does not state that inquiries concerning the application of Title IX should be referred to the Title IX Coordinator, and does not include the name or title, office address, and telephone number for the District's Title IX Coordinator, in accordance with Action Step #3. In the District's next monitoring report, please provide a revised notice of nondiscrimination to include this information.

Title IX Coordinator

Action Step #5 required that the District would ensure that it has designated one or more employees to coordinate the District's efforts to comply with Title IX and will publish this individual's name or title, office address, and telephone number consistent with the requirements of Title IX at 34 C.F.R. § 106.8(a). Action Step #6 required that the District would develop a job description and corresponding training requirements for its Title IX Coordinator and, as appropriate, any deputy coordinators. The job description and corresponding training will cover the investigation of Title IX complaints filed by students, staff, and faculty and the responsibility of the Title IX Coordinator to regularly develop and participate in activities designed to raise awareness within the District regarding sex discrimination (including sexual harassment, sexual assault, and sexual violence), the existence of OCR and its responsibility to enforce Title IX, and the District's policies and procedures regarding such matters.

As stated above, although the District has designated an Equity Assurance Coordinator, this individual's name or title, office address and telephone number are not published consistent with the requirements of Title IX at 34 C.F.R. § 106.8(a). In addition, OCR notes that the Equity Assurance Coordinator's job description does not expressly cover the investigation of Title IX complaints filed by students, staff, and faculty. In the District's next monitoring report please provide documentation demonstrating that the Equity Assurance Coordinator's name or title, office address and telephone number are published, and please also provide the Coordinator's revised job description.

Training for Title IX Coordinator and District Personnel

Action Step #7 required that the District would schedule Title IX training to its Title IX Coordinator, any other coordinators, and any District personnel who will be directly involved in processing, investigating and/or resolving complaints of sex discrimination (including sexual harassment, sexual assault, or sexual violence) or who will otherwise coordinate the District's compliance with Title IX. The training will include: the District's new grievance procedures for Title IX complaints: instruction on preventing, recognizing and appropriately addressing allegations and complaints pursuant to Title IX; sex discrimination, including sexual harassment/assault and violence; the District's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature and to ensure that victims of sexual offenses that are criminal in nature are aware of the District's Title IX obligations and its Title IX grievance procedures; and instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation (which differ from a criminal investigation).

In the District's monitoring report, it provided a detailed overview of the Title IX Coordinator's professional credentials and relevant training. OCR notes, however, that it does not appear that the Title IX Coordinator was provided with training regarding grievance procedures for Title IX complaints, instruction on preventing, recognizing and appropriately addressing allegations and complaints pursuant to Title IX; sex discrimination, including sexual harassment/assault and violence; the District's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature and to ensure that victims of sexual offenses that are criminal in nature are aware of the District's Title IX obligations and its Title IX grievance procedures; and instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation (which differ from a criminal investigation), all of which are required by Action Step #7. Moreover, the District did not provide any information reflecting that any District personnel who will be directly involved in processing, investigating and/or resolving complaints of sex discrimination also received this training. In the District's next monitoring report, please provide your plan for providing this training to the Coordinator and relevant District personnel.

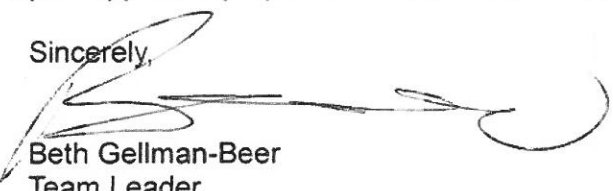
Action Step #8 required that the District would schedule Title IX training to all District administrators. The training will provide attendees with essential guidance and instruction on preventing, recognizing and appropriately responding to allegations and complaints of sex discrimination, including the differences between sex discrimination, sexual harassment sexual assault, and sexual violence and an understanding of the District's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature. In addition, the training will cover the District's new grievance procedure for Title IX complaints. This training will be provided separately to staff who work with particular grade levels (i.e., elementary, middle and high school) and will specifically target staff responsibilities by employment designation (e.g., site supervisors, school counselors, teachers, etc.). Action Step #9 required that the District would develop an ongoing Title IX training program that it will provide to all District staff, to recur on an annual basis, to ensure that administrators, staff and coaches receive adequate training each year. The goal of the training will be to ensure that District administrators and staff are aware of any changes to the law, District policy, and District practices in this area.

During conversations with the Equity Assurance Coordinator, she informed OCR that she conducted Title IX training for staff and administrators on Monday, February 27, 2013. In addition, in its monitoring report, the District asserted that it is requiring all school system staff to take the SafeSchools Sexual Harassment online course beginning in July 2013. In the District's next monitoring report, please provide documentation regarding the February 27, 2013 training, and please also provide documentation reflecting the substance of the SafeSchools Sexual Harassment online training

The District's next monitoring report is due to OCR by November 15, 2013.

If you have any questions, please contact Equal Opportunity Specialist Dale J. Leska at (215) 656-8562.

Sincerely,



Beth Gellman-Beer
Team Leader
Philadelphia Office

cc: Becky Salerno, Manager of the Office of Equity Assurance